

U.S. Appln. No. 09/078,469  
Reply to Office Action dated February 8, 2006

PATENT  
450100-4487

### **REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

#### **I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 1, 3-5, 7, 9-11, 13 and 17-28 are pending. Claims 1, 7, 13, 21, and 25, which are independent, are hereby amended. Claims 2, 6, 8, 12, and 14-16 have been canceled without prejudice or disclaimer of subject matter. It is submitted that these claims, as originally presented, were in full compliance with the requirements 35 U.S.C. §112. No new matter has been introduced by this amendment. Support for this amendment is provided throughout the Specification. Changes to claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which the Applicants are entitled.

#### **II. REJECTIONS UNDER 35 U.S.C. §103(a)**

Claims 1, 3-5, 7, 9-11, 13, 19-21, 23-25, and 27-28 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,088,722 to Herz, et al. and in view of U.S. Patent No. 6,029,176 to Cannon.

Claims 17-18, 22, and 26 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,088,722 to Herz, et al. in view of U.S. Patent No. 6,029,176 to Cannon, and further in view of U.S. Patent No. 6,469,753 to Klosterman.

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Claims 1, 3-5, 7, 9-11, 13, 19-21, 23-25, 27, and 28 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,088,722 to Herz, et al. in view of U. S. Patent No. 5,920,700 to Gordon, et al.

As understood by Applicants, U.S. Patent No. 6,088,722 to Herz et al. (hereinafter merely "Herz") relates to scheduling receipt of desired movies and other forms of data from a network, which simultaneously distributes many sources of such data to many customers, as in a cable television system. Customer profiles are developed for the recipient describing how important certain characteristics of the broadcast video program, movie, or other data are distributed to each customer.

As understood by Applicants, U.S. Patent No. 6,029,176 to Cannon (hereinafter, merely "Cannon") relates to retrieving, manipulating, and analyzing large quantities of computer-based data relevant to television-viewing consumers.

As understood by Applicants, U.S. Patent No. 5,920,700 to Gordon, et al. (hereinafter, merely "Gordon") relates to an asset management system that includes a schedule manager for evaluation of predetermined events particular to each asset and predetermined requirements for distribution, updating, and deletion of the asset in view of real time current conditions and restraints.

Claim 1 recites, *inter alia*:

"...wherein said plurality of user-selectable modes includes a maximum value mode, a minimum value mode, and an average value mode,

wherein retrieval based on the maximum value mode is based on one specific user model and retrieval based on the minimum value mode and the average value mode are based on each of said plurality of user-selectable modes,

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wherein, when the maximum value mode is selected, retrieval is a function of a highest preference of one user model among the plurality of specific user models,

wherein, when the minimum value mode is selected, retrieval is a function of a number of complaints by the plurality of specific user models..." (emphasis added)

Applicants respectfully submit that nothing has been found in Herz, Cannon, Gordon that would teach or suggest the above-identified features of claim 1.

Specifically, Applicants submit that Herz, Cannon, and Gordon fail to teach or suggest that said plurality of user-selectable modes includes a maximum value mode, a minimum value mode, and an average value mode, wherein retrieval based on the maximum value mode is based on one specific user model and retrieval based on the minimum value mode and the average value mode are based on each of said plurality of user-selectable modes, wherein, when the maximum value mode is selected, retrieval is a function of a highest preference of one user model among the plurality of specific user models, and wherein, when the minimum value mode is selected, retrieval is a function of a number of complaints by the plurality of specific user models, as recited in claim 1.

Therefore, claim 1 is patentable. For reason similar to those above, claims 7, 15, 21, and 25 are also believed to be patentable.

Applicants respectfully submit that Klosterman does not provide the disclosure missing in Herz, Cannon, and Gordon.

### III. DEPENDENT CLAIMS

The other claims in this application are each dependent from one of the independent claims discussed above and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the

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invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

### CONCLUSION

In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference, or references, providing the basis for a contrary view.

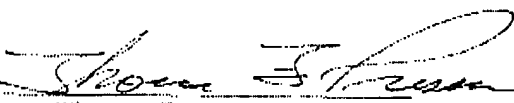
In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

Respectfully submitted,

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